

No. 15-16440 / 15-16626 (Consolidated)

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MANUEL DE JESUS ORTEGA MELENDRES, ET AL.,

Plaintiffs-Appellees

v.

MARICOPA COUNTY AND JOSEPH M. ARPAIO

Defendants

v.

DENNIS L. MONTGOMERY, Proposed Intervenor

Movant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

2:07-cv-02513-GMS

The Honorable G. Murray Snow
United States District Judge

APPELLEES' OPPOSITION TO APPELLANT DENNIS L.
MONTGOMERY'S MOTION TO EXPEDITE APPEAL

Stanley Young

Michelle L. Morin

COVINGTON & BURLING LLP

333 Twin Dolphin Drive, Suite 700

Redwood shores, CA 94065-1418

Telephone: (650) 632-4700

Facsimile: (650) 632-4800

syoung@cov.com

mmorin@cov.com

Cecillia D. Wang

ACLU FOUNDATION

IMMIGRANTS' RIGHTS PROJECT

39 Drumm Street

San Francisco, CA 94111

Telephone: (415) 343-0775

Facsimile: (415) 395-0950

cwang@aclu.org

(counsel continued on next page)

Attorneys for Plaintiffs-Appellees

MANUEL DE JESUS ORTEGA MELENDRES, ET AL.

Anne Lai
401 E. Peltason Dr.
Law 4800-P
Irvine, CA 92697-8000
Telephone: (949) 824-9894
Facsimile: (949) 824-0066
alai@law.uci.edu

Andre Segura
ACLU FOUNDATION
IMMIGRANTS' RIGHTS PROJECT
125 Broad Street, 17th Floor
New York, NY 10004
Telephone: (212) 549-2676
Facsimile: (212) 549-2654
asegura@aclu.org

Dan Pochoda
ACLU FOUNDATION OF ARIZONA
3707 N. 7th St., Ste. 235
Phoenix, AZ 85014
Telephone: (602) 650-1854
Facsimile: (602) 650-1376
dpochoda@acluaz.org
jlyall@acluaz.org

Jorge Martin Castillo
MEXICAN AMERICAN LEGAL AND
EDUCATIONAL FUND
634 South Spring Street, 11th Floor
Los Angeles, CA 90014
Telephone: (213) 629-2512
Facsimile: (213) 629-0266
jcastillo@maldef.org

Attorneys for Plaintiffs-Appellees

MANUEL DE JESUS ORTEGA MELENDRES, ET AL.

Appellees Manuel de Jesus Ortega Melendres, et al., oppose Appellant Dennis L. Montgomery's motion for expedition (Dkt. 30 in No. 15-16440, Dkt. 26 in No. 15-16626).

There is no need to expedite the present consolidated appeals. Appellant is neither a party nor a witness in the proceedings below. Appellant objects to the District Court's discovery orders against parties in the case below, not against him, and he wishes to intervene and move to disqualify the District Court judge. For these ends, his attorneys filed the *pro hac vice* motions that are the subject of the present consolidated appeals.

This Court has twice denied Appellant's attempts to obtain "emergency" relief. First, Appellant filed an emergency petition for writ of mandamus to this Court (No. 15-71433, Dkt. 1-2), which this Court denied in an Order dated May 12, 2015 (No. 15-71433, Dkt. 2). Then Appellant filed an emergency motion to stay the District Court proceedings (No. 15-16440, Dkt. 6), which this Court denied in an Order dated September 15, 2015 (No. 15-16440, Dkt. 11). Appellees refer to their previous opposition to Appellant's motion for stay. *See* No. 15-

16440, Dkt. 7. Appellant's current motion adds nothing new to warrant expedition of the present consolidated appeals.¹

The present motion also seeks to impose a hardship on Appellee counsel. Appellant asks that the brief of Appellees be due on December 21, 2015. That is the same date that Appellees must file another brief in a different appeal filed by Maricopa County arising from the same case, No. 15-15996. That appeal involves issues that are very different from the issues raised by the present consolidated appeals. Requiring that Appellees' brief in the present consolidated appeals be filed on the same date as their brief in the No. 15-15996 would cause hardship for Appellees' counsel in light of the set time frame for Appellees' response to the County's appeal (for which no extensions will be granted to Appellees, pursuant to this Court's order of October 26, 2015 (No. 15-15996, Dkt. 21)). Given that Appellant's 19-page brief in one of the present consolidated appeals, No. 15-16626, was filed on November 20, 2015, the presently scheduled January 20, 2016 due date for Appellees' responsive brief is not unduly extended or unfair in any way.

Appellant will suffer no harm under the current schedule. His requested schedule change would create a hardship for Appellees' counsel in view of their

¹ Defendant Arpaio and another named contemnor also filed a petition for writ of mandamus seeking the District Court's disqualification and a motion for stay, which this Court also denied on September 15, 2015 (No. 15-72440, Dkt. 14).

brief due in the Maricopa County appeal, No. 15-15996. Appellees therefore request that the Court deny Appellant's motion for expedition.²

Dated: December 10, 2015

By /s/ Stanley Young
Stanley Young
syoung@cov.com
Michelle L. Morin
mmorin@cov.com
COVINGTON & BURLING LLP
333 Twin Dolphin Drive, Suite 700
Redwood Shores, CA 94065-1418
Telephone: (650) 632-4700
Facsimile: (650) 632-4800

Dan Pochoda
dpochoda@acluaz.org
ACLU FOUNDATION OF
ARIZONA
3707 N. 7th St., Ste. 235
Phoenix, AZ 85014
Telephone: (602) 650-1854
Facsimile: (602) 650-1376

Anne Lai
alai@law.uci.edu
401 E. Peltason, Suite 3500
Irvine, CA 92697-8000
Telephone: (949) 824-9894
Facsimile: (949) 824-0066

² Appellant filed his motion to expedite without waiting to hear the positions of Defendants Arpaio and Maricopa County. *See* Circuit Advisory Committee Note to Ninth Circuit Rule 27-1, paragraph (5). Based on correspondence sent after Appellant filed his motion, Appellees understand that those other parties take no position on Appellant's motion.

Cecillia D. Wang
cwang@aclu.org
ACLU FOUNDATION
Immigrants' Rights Project
39 Drumm Street
San Francisco, California 94111
Telephone: (415) 343-0775
Facsimile: (415) 395-0950

Andre Segura
asegura@aclu.org
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Telephone: (212) 549-2676
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Jorge Martin Castillo
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MEXICAN AMERICAN LEGAL
DEFENSE AND EDUCATIONAL
FUND
634 South Spring Street, 11th Floor
Los Angeles, California 90014
Telephone: (213) 629-2512
Facsimile: (213) 629-0266

Attorneys for Plaintiffs-Appellees

CERTIFICATE OF COMPLIANCE

I certify that pursuant to Fed. R. App. P. 27-1, the attached brief is in compliance with Fed. R. App. P. 27(d) and does not exceed 20 pages.

Date: December 10, 2015

/s/ Stanley Young
STANLEY YOUNG

CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2015, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

Date: December 10, 2015

/s/ Stanley Young
STANLEY YOUNG